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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LYNN DiNORSCIA; MARGARET D. FRITZ;)	Case No. C 04 5436 SC
RHONDA PAYNE; RUTH J. WILLIAMS and)	
TIFFANY R. WILSON, Individually)	OPPOSITION TO DEFENDANT'S
)	MOTION TO CHANGE VENUE
Plaintiffs,)	PURSUANT TO F.R.C.P. 1404(a)
)	
v.)	
)	
AGILENT TECHNOLOGIES INC.; and DOES)	
1 through 200, Inclusive,)	
)	
Defendants.)	
_____)	
)	

Plaintiffs LYNN DiNORSCIA, MARGARET D. FRITZ, RHONDA PAYNE, RUTH J. WILLIAMS, and TIFFANY R. WILSON oppose Defendant AGILENT TECHNOLOGIES, INC.'s Motion to Change Venue, as follows:

I.

INTRODUCTION

The above referenced matter is brought based upon the wrongful termination of Plaintiffs' employment without fair warning for allegedly misusing the e-mail system of Defendant.

A. Plaintiffs' Request That This Matter Remain In The Northern District, Or In The Alternative, Be Transferred To The Federal Court In The State Of Colorado.

Defendant now seeks to transfer the venue of this action to Delaware based upon the grounds that said venue would be more convenient to witnesses and evidence under F.R.C.P. 1404(a). However, Defendant fails to mention that the investigations of these e-mails began in Colorado.

The deposition of Stacie Drucker-Andress, in the Williams matter, revealed that the investigation of the misconduct which the plaintiffs in both the Williams and DiNorscia cases were fired for began with an investigation on the East Coast; this investigation was performed in Colorado. In fact, the East Coast investigation led to the discovery of the West Coast employees. See attached true and correct portions of the Deposition Transcript of Stacy Drucker-Andress, pgs. 91: 24-93:7. This investigation of the email usage of Agilent employees began in Little Falls, Delaware. See attached true and correct portions of the Deposition Transcript of Stacy Drucker-Andress at pgs. 146: 24-147: 18.

Based upon the testimony of Stacie Drucker-Andress, it becomes clear that the investigation of the West Coast employees was initiated by way of the investigation of the East Coast employees. Therefore, the method of investigating these employees conduct would necessarily be interdependent, and also the standard with regard to Agilent's termination of these employees would be similar; based upon these facts deeming these cases related would yield higher efficiency if litigated in a consolidated manner.

Also, in evaluating the 'interests of justice' for purposes of § 1404(a), courts must consider grounds for proper venue under any applicable special venue statute. See In re Horseshoe Entertainment (5th Cir. 2003) 337 F3d 429, 434--in Title VII employment discrimination action, court must consider factors enumerated in 42 USC § 2000e-5(f)(3) (i.e., where plaintiff would have worked but for the unlawful discrimination, where employer had its principal office, the location of employment records, etc.). As stated by Mrs. Drucker-Andress, the investigation that led to the plaintiff's claims was conducted in Colorado. Therefore, if there is to be a transfer of the case

1 whatsoever, Plaintiffs request that said transfer is to the State of Colorado, so that the persons
2 performing the investigation and evaluating the propriety of Plaintiffs' conduct, and their documents
3 may be readily accessible.

4 Respectfully Submitted,

5 LAW OFFICES OF PATRICK E. CATALANO

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7 Dated: March 11, 2005

By: _____/s/
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